

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA**

**BENJAMIN REETZ, individually
and as the representative of a class
of similarly situated persons, and on
behalf of the Lowe's 401(k) Plan,**

Plaintiff,

v.

**LOWE'S COMPANIES, INC.,
ADMINISTRATIVE
COMMITTEE OF LOWE'S
COMPANIES, INC., JOHN AND
JANE DOES 1-20, and AON
HEWITT INVESTMENT
CONSULTING, INC.,**

Defendants.

Civil Action No. 5:18-cv-75

Oral Argument Requested

**LOWE'S DEFENDANTS'
MOTION TO DISMISS THE COMPLAINT**

Defendants Lowe's Companies, Inc. ("Lowe's") and the Administrative Committee of Lowe's Companies, Inc. (the "Committee," and, collectively, the "Lowe's Defendants") respectfully move under Federal Rule of Civil Procedure 12(b)(6) and Local Rule 7.1 to dismiss the Complaint (Dkt. No. 1) in this action with prejudice.

The Complaint fails in its entirety because Plaintiff has not alleged facts sufficient to support any claim for which he is entitled to relief, and no amount of re-pleading can overcome those deficiencies. Specifically, as explained in the accompanying Memorandum of Law: (1) Count I of the Complaint fails to state a valid claim against the Lowe's Defendants for breach of the fiduciary duties of loyalty and prudence under 29 U.S.C. § 1104; and (2) Count II of the Complaint fails to state a valid claim against Defendant Lowe's for breach of the duty to monitor

fiduciaries. Therefore, the Lowe's Defendants respectfully ask this Court to dismiss the Complaint with prejudice and to grant the Lowe's Defendants any other relief that the Court deems proper.

REQUEST FOR ORAL ARGUMENT

Due to the breadth, complexity, and importance of the issues raised by the Complaint and by this Motion, the Lowe's Defendants respectfully request oral argument on this Motion.

Respectfully submitted this 29th day of June, 2018,

/s/Mark A. Nebrig

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CERTIFICATE OF SERVICE

This is to certify that, on June 29, 2018, a copy of the foregoing ***LOWE'S DEFENDANTS' MOTION TO DISMISS THE COMPLAINT*** was filed electronically with the Clerk of Court using the CM/ECF system, which will automatically send notification of filing to all counsel of record in the ECF System.

/s/Mark A. Nebrig

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